PATENT APPLICATION
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: Morris *et al.*

Serial No: 09/601,667

Filed: October 6, 2000

For: Recombinant Mistletoe Lectins

Group Art Unit: 1653

Examiner: S.W. Liu, Ph.D.

I hereby certify that this paper is being deposited with the United States Postal Service as First Class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on March 11, 2003.

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**APPLICANTS' RESPONSE TO A RESTRICTION REQUIREMENT**

Commissioner for Patents
Washington, D.C. 20231

Sir:

In a communication mailed February 11, 2003, the Patent Office set forth a restriction requirement, asserting that the subject matter of the claims relates to nine inventions "not so linked as to form a single general inventive concept under PCT Rule 13.1." The Applicants respectfully traverse.

The subject matter of all claims is linked by a single general inventive concept which is the unique mistletoe lectin polypeptide comprising the sequence of SEQ ID NO: 1 and SEQ ID NO: 4 or a fragment thereof, wherein Xaa at position 533 of SEQ ID NO: 1 and Xaa at position 534 of SEQ ID NO: 40 is phenylalanine and the subject matter in all claims arises from this single concept. For example, claims 46-48, 56-70, and 85-87 (designated Group I by the Examiner) relate to a method of recombinantly producing the unique mistletoe lectin polypeptide as described above, claims 85-87 (designated Group VII by the Examiner) relate to a method of producing the unique mistletoe lectin polypeptide in a transgenic mistletoe plant, and claims 49-54 and 78-80 (designated Group II by the Examiner) relate to the unique polypeptides themselves and pharmaceutical compositions comprising the unique polypeptides. Claims 55 and 88 (designated Group III by the Examiner) relate to a method of producing a polynucleotide, including a mutagenesis step, which encodes for the unique mistletoe lectin polypeptide and claim 88 (designated Group VIII by the Examiner) relates to a method of preparing a polynucleotide encoding the unique mistletoe lectin polypeptide in a transgenic mistletoe

plant. Claims 71-77 (designated Group IV by the Examiner) relate to a pharmaceutical composition comprising the polynucleotides encoding the unique mistletoe lectin polypeptide as described above. Claim 81 (designated Group V by the Examiner) relates to a method of producing a medicament for treating uncontrolled cell growth using the unique mistletoe lectin polypeptide as described above and claims 82-84 (designated Group VI by the Examiner) relate to a method of producing a medicament for intensifying immune reactions without cytotoxic activity using the unique mistletoe lectin polypeptide. Claims 89 and 90 (designated Group VIII by the Examiner) relate to an *in vitro* method of producing the unique mistletoe lectin polypeptide described above by chemical modification. The subject matter of all claims is therefore linked by a single technical feature, the unique mistletoe lectin polypeptide comprising the sequence of SEQ ID NO: 1 and SEQ ID NO: 4 or a fragment thereof, wherein Xaa at position 533 of SEQ ID NO: 1 and Xaa at position 534 of SEQ ID NO: 40 is phenylalanine and this common link is undeniable. The special technical feature as required under PCT Rule 13.2, which defines a contribution over the prior art like Sweeney *et al. J. Mol. Biol.* 234:1279-1281 (1993), is therefore these amino acid sequences encoding the unique mistletoe lectin polypeptides.

The Applicants therefore submit that the restriction requirement is improper and respectfully request that it be withdrawn. However, in order to be fully responsive to the restriction requirement, the Applicants elect claims 49-54 and 78-80 (designated Group II by the Examiner) for continued prosecution.

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Respectfully submitted,

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By _____

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